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DEPARTMENT OF COMMERCE

International Trade Administration

(A-533-824)

Polyethylene Terephthalate Film, Sheet, and Strip from Taiwan: Final Results of Antidumping Duty Administrative Review; 2010-2011

AGENCY: Import Administration, International Trade Administration, Department of Commerce

SUMMARY: On August 6, 2012, the Department of Commerce (Department) published the preliminary results of administrative review of the antidumping duty order on polyethylene terephthalate film (PET Film) from Taiwan.<sup>1</sup> This review covers two respondents, Shinkong Synthetic Fibers Corporation and its subsidiary Shinkong Materials Technology Co. Ltd. (collectively, Shinkong), and Nan Ya Plastics Corporation, Ltd. (Nan Ya), producers and exporters of PET Film from Taiwan. Based on the results of our analysis of the comments received, we have made changes to the Preliminary Results. For the final weighted-average dumping margins, see the “Final Results of Review” section below.

EFFECTIVE DATE: (Insert date of publication in the Federal Register.)

FOR FURTHER INFORMATION CONTACT: Sean Carey or Milton Koch, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 428-3964 or (202) 482-2584, respectively.

**SUPPLEMENTARY INFORMATION:**

Background

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<sup>1</sup> See Polyethylene Terephthalate Film, Sheet, and Strip From Taiwan: Preliminary Results of Antidumping Duty Administrative Review, 77 FR 46704 (August 6, 2012) (Preliminary Results).

Since the Preliminary Results, the following events have taken place. Between August and October 2012, the Department issued several supplemental questionnaires to both Shinkong and Nan Ya requesting additional information. All responses were timely submitted. On September 28, 2012, Wilmer Hale withdrew its representation of DuPont Teijin Films, one of the petitioners. As explained in the memorandum from the Assistant Secretary for Import Administration, the Department has exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from October 29, through October 30, 2012. Thus all deadlines in this segment of the proceeding have been extended by two days.<sup>2</sup> On November 8, 2012, the Department extended the deadline of the final results from December 6, 2012 to February 4, 2013.<sup>3</sup> On December 19, 2012, Mitsubishi Polyester Film, Inc., SKC, Inc., and Toray Plastics (America), Inc. (collectively, Petitioners) filed comments on Nan Ya's supplemental questionnaire responses.

The Department issued a post preliminary analysis to address Petitioners' targeted dumping allegation for both Shinkong and Nan Ya on December 20, 2012.<sup>4</sup> Shinkong and Petitioners filed timely case briefs on January 3, 2013. We rejected Nan Ya's January 3, 2013 case brief because it contained untimely filed new factual information. NanYa re-filed its case brief on January 9, 2013 and filed its rebuttal brief on January 10, 2013. Petitioners timely filed

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<sup>2</sup> See Memorandum to the Record from Paul Piquado, Assistant Secretary for Import Administration, regarding "Tolling of Administrative Deadlines As a Result of the Government Closure During Hurricane Sandy" dated October 31, 2012.

<sup>3</sup> See Memorandum from Barbara Tillman, Antidumping and Countervailing Duty Operations Office 6 Director to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, "Polyethylene Terephthalate Film from Taiwan: Extension of Deadline for Final Results of Antidumping Duty Administrative Review."

<sup>4</sup> See Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Import Administration, "2010-2011 Administrative Review of the Antidumping Duty Order on Polyethylene Terephthalate Film, Sheet, and Strip from Taiwan: Post-Preliminary Analysis and Calculation Memorandum of Nan Ya Plastics Corporation, Ltd. and Shinkong Synthetic Fibers Corporation and its subsidiary Shinkong Materials Technology Co. Ltd." dated December 20, 2012.

a rebuttal brief on January 10, 2013.

### Scope of the Order

The products covered by the antidumping duty order are all gauges of raw, pretreated, or primed polyethylene terephthalate film, sheet, and strip, whether extruded or coextruded. Excluded are metalized films and other finished films that have had at least one of their surfaces modified by the application of a performance-enhancing resinous or inorganic layer of more than 0.00001 inches thick. Imports of polyethylene terephthalate film, sheet, and strip are currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under item number 3920.62.00.90. HTSUS subheadings are provided for convenience and customs purposes. The written description of the scope of the antidumping duty order is dispositive.

### Period of Review

The period of review is July 1, 2010, through June 30, 2011.

### Analysis of Comments Received

All issues raised in the case and rebuttal briefs filed by parties are addressed in the Decision Memorandum.<sup>5</sup> A list of these issues is attached to this notice in the Appendix. The Decision Memorandum is a public document and is on file electronically via Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). Access to IA ACCESS is available to all registered users at <http://iaaccess.trade.gov>, and is available to all parties in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Decision

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<sup>5</sup> See Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Import Administration, "Issues and Decision Memorandum for the Final Results of the 2010-2011 Antidumping Duty Administrative Review: Polyethylene Terephthalate Film, Sheet, and Strip from Taiwan," dated February 4, 2013 (Decision Memorandum).

Memorandum can be accessed directly on the Internet at <http://www.trade.gov/ia/>. The signed Decision Memorandum and electronic versions of the Decision Memorandum are identical in content.

#### Changes Since the Preliminary Results

Based on our analysis of the comments received and information gathered after the Preliminary Results, we have made adjustments to our margin calculations for both Shinkong and Nan Ya. For Shinkong, the Department has modified the calculations of credit expenses, direct selling expenses, and the adjustment for the provision of free samples. For Nan Ya, the Department has modified the date of sale and the targeted dumping analysis.<sup>6</sup>

#### Final Results of Review

As a result of our review, we determine that the following weighted-average dumping margins exist for the period July 1, 2010, through June 30, 2011.

Manufacturer/Exporter	Weighted-Average Dumping Margin
Shinkong Synthetic Fibers Corporation/ Shinkong Materials Technology Co. Ltd	0.75%
Nan Ya Plastics Corporation, Ltd	8.99%

#### Assessment Rates

The Department shall determine, and U.S. Customs and Border Protection (CBP) shall

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<sup>6</sup> Because the details of these changes include business proprietary information, see Memorandum to Dana S. Mermelstein, Program Manager, AD/CVD Operations, Office 6, "Final Results of the 2010-2011 Administrative Review of Polyethylene Terephthalate Film Sheet and Strip from Taiwan: Calculations for Shinkong Synthetic Fibers Corporation and its subsidiary Shinkong Materials Technology Co. Ltd.," dated February 4, 2013 and Memorandum to Dana S. Mermelstein, Program Manager, AD/CVD Operations, Office 6, "Final Results of the 2010-2011 Administrative Review of Polyethylene Terephthalate Film Sheet and Strip from Taiwan: Calculations for Nan Ya Plastics Corporation," dated February 4, 2013.

assess, antidumping duties on all appropriate entries. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of review.

For any individually examined respondents whose weighted-average dumping margin is above de minimis (i.e., 0.5 percent) in the final results, we will calculate importer-specific ad valorem duty assessment rates based on the ratio of the total amount of dumping calculated for the importer's examined sales to the total entered value of those sales in accordance with 19 CFR 351.212(b)(1).<sup>7</sup> We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review when the importer-specific assessment rate calculated in the final results of this review is above de minimis. Where either the respondent's weighted average dumping margin is zero or below de minimis or an importer-specific assessment rate is zero or de minimis, we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.<sup>8</sup>

The Department clarified its "automatic assessment" regulation on May 6, 2003. This clarification will apply to entries of subject merchandise during the POR produced by each respondent for which they did not know that their merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction. For a full discussion of this clarification, see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties, 68 FR 23954 (May 6, 2003).

#### Cash Deposit Requirements

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<sup>7</sup> See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification, 77 FR 8101 (February 14, 2012) (Final Modification for Reviews). In the Preliminary Results, the Department applied the assessment rate calculation method adopted in Final Modification for Reviews, i.e., on the basis of monthly average-to-average comparisons using only the transactions associated with that importer with offsets being provided for non-dumped comparisons.

<sup>8</sup> See 19 CFR 351.106(c)(1).

The following deposit requirements will be effective for all shipments of PET Film from Taiwan entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review, as provided for by section 751(a)(2)(C) of the Tariff Act of 1930, as amended (Act): (1) the cash deposit rate for company under review will be the rate established in the final results of this review (except, if the rate is zero or below de minimis, i.e., 0.5 percent, no cash deposit will be required); (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the less-than-fair-value investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and, (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review, the cash deposit rate will be the all others rate for this proceeding, 2.40 percent. These deposit requirements, when imposed, shall remain in effect until further notice.

#### Notification Regarding Administrative Protective Orders

This notice is the only reminder to parties subject to the administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under the APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

#### Notification to Importers

This notice also serves as a final reminder to importers of their responsibility under

19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

We are issuing and publishing these final results and this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Paul Piquado  
Assistant Secretary  
for Import Administration

Dated: February 4, 2013.

## **APPENDIX**

### **LIST OF COMMENTS**

**Comment 1: Whether to Apply an Alternative Comparison Method to Nan Ya and Shinkong**

**Comment 2: Whether the Department Should Modify the Calculations of Certain Adjustments for Shinkong**

**Comment 3: Whether the Department Should Use Nan Ya's Revised U.S. Sales Database**

**Comment 4: Whether the Department Should Change Nan Ya's Date of Sale from Invoice Date to Sales Confirmation Date**

**Comment 5: Whether the Department Should Use Entry Date To Define Nan Ya's Universe of Sales and Consequently To Exclude Nan Ya Sales That Are Outside The POR**

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